IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.1483 OF 2005

Mithailal Matacharan Dhivar — Petitioner
vs.
The State of Maharashtra & ors. — Respondents

Ms.B.D'Souza i/b.M/s.M.P.Vashi & Associates for the petitioner.

Mr.Milind More, A.G.P. for the respondent no.1.

Mr.R.M.Sawant, Government Pleader for respondents 2 and 3.

CORAM : F.I.REBELLO &
ANOOP V. MOHTA,JJ.

DATED : 19th August, 2006

P.C.

The petitioner is claiming to be the owner, being the heir and legal representative of one Matacharan Gopal Dhivar (now deceased), of the land bearing C.T.S.Nos.49, 49/525, 49/564 to 583, 49/631 to 642, 49/651 to 655 of village Majas, Bandrekar Wadi, Jogeshwari (East), Mumbai, has invoked Article 226 of the Constitution of India and prayed that the respondents be prevented from taking possession and/or disturbing the possession of the petitioner in respect of the property and further prayed to direct them to adopt suitable and proper procedure as provided in law

for acquisition of land and the structures in question.

2. The respondents 2 and 3 have filed the affidavit dated 11th August, 2006 and averred in paragraphs 3 and 4 as under:

> "3. I say that the petitioner's land and structures thereon are affected by the proposed Road Over Bridge (ROB) at Jogeshwari (South) which project is being implemented by the MCGM under the MUTP. In so far as the rehabilitation of the Project Affected Persons (PAPs) are concerned, the same would be done by the MMRDA. I say that a Baseline Socio-Economic Survey (BSES) was carried out through an NGO, namely the Slum Rehabilitation Society (SRS) and the persons who are eligible for rehabilitation have been identified by the said NGO and about 23 persons are held to be eligible.
>
> 4. I say that in so far as the acquisition of land is concerned, the same would have to be done by the MCGM who will decide upon the mode of payment of compensation to the concerned land owners. I say that Shri R.K.Sonawane, Chief (R & R)MMRDA has already vide his letter dated 16th May, 2006 informed the MCGM of the steps to be taken to acquire the land in question. I say that I have also forwarded the documents which were submitted to the MMRDA by the petitioner for claiming compensation and alternate accommodation."

3. Considering the averments made in the affidavit of respondents 2 and 3, there nothing survives in the petition. The respondents are even otherwise bound to take steps for an acquisition by following the due

process of law.

4. The petition is disposed of accordingly.

(F.I. REBELLO, J.)

(ANOOP V. MOHTA,J.)